IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

WP(C).No. 1853 of 2004(S)

PETITIONERS:
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1. UNION OF INDIA, REP. BY ITS SECRETARY,
MINISTRY OF COMMUNICATIONS, NEW DELHI.

2. CHIEF POSTMASTER GENERAL,
KERALA CIRCLE, THIRUVANANTHAPURAM.

3. THE POSTMASTER GENERAL, CENTRAL REGION,
KOCHI 16.

4. THE SUPERINTEDENT OF POST OFFICERS,
MAVELIKKARA DN MAVELIKKARA 690 101.

5. THE SUB DIVISIONAL INSPECTOR,
KAYAMKULAM SUB DIVISION,
MAVELIKKARA.

BY ADV. SRI.P.S.SREEDHARAN PILLAI, SCGSC
SRI.JOHN VARGHESE, SCGSC
SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR

RESPONDENTS:
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1. S.CHANDRAN PILLAI, GDSMD,
PATTOLIMARKET, MAVELIKKARA RESIDING AT
MALAPPURATH KIZHAKKETHIL, MUTHUKULAM SOUTH.

2. THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH, REP. BY ITS REGISTRAR.

R1 BY ADV. SRI.V.SAJITH KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 1853 of 2004(S)

PETITIONERS' EXHIBITS:-

Ext.P1: **COPY OF OA.NO.719/2003 ALONG WITH ITS ANNEXURES FILED BY THE FIRST RESPONDENT BEFORE THE 2ND RESPONDENT DTD.22.8.2003.**

Ext.P2: **COPY OF COUNSEL STATEMENT FILED BY C.RAJENDRAN, SR.C.G.S.C., CAT, ERNAKULAM FOR AND ON BEHALF OF THE PETITIONERS BEFORE THE 2ND RESPONDENT DTD.1.10.2003.**

Ext.P3: **COPY OF ORDER IN OA.NO.719/2003 OF THE CAT, ERNAKULAM BENCH DTD.1.10.2003.**

RESPONDENTS' EXHIBITS:- **Nil.**

(true copy)

P.S. TO JUDGE.

Kvs/-

K. Balakrishnan Nair &
T.R. Ramachandran Nair, JJ.

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W.P.(C).NO.1853 of 2004-S

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Dated this the 9th day of October, 2007

JUDGMENT

Balakrishnan Nair J.

The petitioners herein are the respondents in O.A. No.719/2003 on the file of the Central Administrative Tribunal, Ernakulam Bench. The first respondent was the applicant. The applicant was an Extra Departmental Packer, Muthukulam South Sub Office since 1982. While so, in 1986 the said Post Office was abolished and he was transferred to Pattoli Market Post Office, a place far off from his residence. While, so, a post of Gramin Dak Sevak Mail Deliverer arose at Muthukulam. When steps were taken to fill up the said vacancy by direct recruitment, the Original Application was filed contending that he should be transferred to that post. The petitioners herein resisted the application contending that the applicant is not eligible for a transfer to Muthukulam. The Tribunal overruled their objections and ordered to consider the applicant's claim for transfer to the aforementioned post at Muthukulam, before resorting to appointment from open market. Ext.P3 is the order of the Tribunal. The said order is under challenge in this writ petition.

2. According to the petitioners, the point raised by them is covered in their favour by the decision of this court in **Senior Superintendent of Post Offices. v. Raji Mol** (2004 (1) KLT 183). Transfer can be sought only to the same or equivalent post and not to a higher post, it is submitted. In this case, Gramin Dak Sevak Mail Deliverer is a post in the higher grade, it is submitted by the writ petitioners.

3. The first respondent herein has filed a counter affidavit supporting the impugned order of the Tribunal and along with that, he has produced Ext.R1(a) which permits transfer of E.D. Agents now called Gramin Dak Sevak Mail Deliverer, under certain circumstances. The applicant's transfer from Muthukulam was occasioned because of the abolition of the post. It is submitted that he is eligible to be re-transferred to the post now available.

4. Heard counsel on both sides. Learned counsel for the petitioners submitted that in view of the new order Ext.R1(a), the applicant's claim for transfer back to Muthukulam can be considered. We also heard learned counsel for the first respondent on this point. Having regard to the facts of the case, the competent authority among the petitioners is directed to consider the claim of the first respondent for transfer to Muthukulam in accordance with law, in the light of Ext.R1(a) order of the Ministry of

Communications and I.T., Department of Posts, New Delhi dated 17.7.2006. The competent authority shall do this within two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

(K. Balakrishnan Nair, Judge.)

(T.R. Ramachandran Nair, Judge.)

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